

REMARKS

Applicant's attorney acknowledges a telephone interview with the Examiner on 31 March 2005, during which it was successfully argued that the Finality of the Office Action dated 02/04/2005 was premature and unwarranted since a new reference (Krishnaswamy) and ground of rejection had been applied and no allegation of new issues was presented. The Interview Summary referenced above withdraws the finality.

Claims 1 – 6 have been deemed allowable. Claims 7 – 10 are at issue.

Claims 7 - 10 were rejected under 35 USC §102 (e) as anticipated by Krishnaswamy, which is allegedly "teaches a calibration device capable of calibrating any one of a plurality of instruments...", and "a database having a calibration procedure for any of the plurality of the instruments..." A close reading of Krishnaswamy, especially the cited Ref. 10 and paragraph 27, provides no support for this allegation.

Reference 10 is generally indicative of "an instrument used in patient testing for one or more analytes (e.g. blood glucose, ketones, etc.) in a hospital environment... The instrument 10 analyzes a patient sample (e.g. blood) deposited on one end of a test strip when the other end of the test strip is inserted in the instrument 10." There is no suggestion, disclosure or teaching of "Apparatus for enabling **on-site calibration** of any selected one of a **plurality of instruments that measure vibrations** in machines to **assure** that said one instrument **functions within instrument performance standards...**" as recited in Applicant's claim 7. Krishnaswamy's instrument 10 measures blood samples provided on an inserted strip. No calibration, no machine vibration measuring instruments are referenced. This is the purpose of Applicant's apparatus. Purpose and function are entirely unrelated!

Where is Krishnaswamy's "**calibration device** capable of calibrating the any of the plurality of said instruments"?

In the cited paragraph 27, Krishnaswamy provides a database having different analysis procedures for different instruments. There is no suggestion of calibrating the instruments, only configuring the instruments for different analyses of different components of the blood on the test strip "(blood glucose, ketones, etc.), as in paragraph 26" Where is Krishnaswamy's "database having a **calibration procedure**"?

It is clear that Claims 7 – 10 recite a far different apparatus than disclosed in Krishnaswamy. Applicant provides apparatus and a database for **calibrating** any of a plurality of **vibration measuring instruments**, while Krishnaswamy discloses instruments and a database for analyzing different components of a blood sample.

In view of the above, the Examiner is requested to reconsider and withdraw the grounds of rejection and to allow claims 7 – 10, in addition to the already allowed claims 1 - 6

Respectfully submitted,

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May 24, 2005

Docket 30658

This Response and Amendment was faxed to the USPTO, Art Unit 2863 @ 703-872-9306 on May 24, 2005 by

